

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3235 of 2016

ShivanDhanda

...Petitioner

versus

RoopamOberoi

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the I Additional Family Court, Chennai to number the I.A.Sr.No.9391 of 2016 in O.P.No.4483 of 2014 filed on 24.09.2016 on the file of I Additional Family Court, Chennai and permit the petitioner to move the said I.A.Sr.No.9391 of 2016.

For Petitioner : Mr.Thriyambak J.Kannan

ORDER

The petitioner filed a divorce petition in O.P.No.4483 of 2014 before the First Additional Family Court, Chennai, praying for a decree of divorce. The respondent, on the other hand, filed P.A.No.1175 of 2014 before the Family Court, Pune, again for divorce. Subsequently, the respondent filed Transfer Petition (Civil) No.26 of 2015 before the Hon'ble Supreme Court of India to transfer the proceedings in

O.P.No.4483 of 2015 to the Family Court at Pune for disposal along with P.A.No.1175 of 2014. The Supreme Court, initially, granted stay of further proceedings.

2. Subsequently, the parties settled the matter, in and by which, it was decided to withdraw the proceedings in O.P.No.4483 of 2015 and convert the proceedings pending before the Family Court at Pune in P.A.No.1175 of 2014 into one of joint petition for divorce. Since the petitioner has to withdraw the original petition in O.P.No.4483 of 2014, application was filed before the Trial Court in I.A.Sr.No.9391 of 2016 to advance the hearing. The application was not entertained by the learned Trial Judge primarily on the ground that the Court is yet to receive the copy of the order of the Supreme Court dated 16.09.2016. Feeling aggrieved, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner. I have also perused the material papers including the order passed by the Supreme Court dated 16.09.2016 in Transfer Petition (Civil) No.26 of 2015.

4. The prayer in I.A.Sr.No.9391 of 2016 was only to advance the hearing of the original petition, so as to enable the petitioner to

withdraw the proceedings in O.P.No.4483 of 2014, in view of the settlement arrived at among the parties. The petitioner was fully justified in filing such an application so as to give a quietus to the matter pending before the I Additional Family Court at Chennai.

5. It would be possible for the petitioner and the respondent to file a divorce petition before the Family Court at Pune only after the disposal of the petition in O.P.No.4483 of 2014. I am therefore of the view that the matter requires consideration by the learned Judge, I Additional Family Court, Chennai.

6. The I Additional Judge, Family Court, Chennai is directed to number the application in I.A.Sr.No.9391 of 2016 and pass appropriate orders taking into account the settlement arrived at among the parties and disposal of the Transfer Petition (Civil) No.26 of 2016 by the Hon'ble Supreme Court. Such exercise shall be completed within a period of one week from the date of receipt of a copy of this order. In case, the Presiding Officer of the I Additional Family Court, Chennai is not sitting, the learned Judge, Incharge of the said Court shall comply with the order passed by this Court, in view of the urgency expressed by the petitioner and the terms of settlement requiring the parties to

file divorce petition by mutual consent before the Family Court at Pune after withdrawing the proceedings in O.P.No.4483 of 2014.

7. The Civil Revision Petition is disposed of with the above direction. No costs.

20.10.2016

Index:Yes/No
svki

Note :

1. Issue the order copy by 25.10.2016
2. Registry is directed to return the original papers to the petitioner after substituting the same with photocopy

To

The I Additional Family Court, Chennai

K.K.SASIDHARAN, J.

(svki)

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